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City of Cincinnati

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An Ordinance No. _____

- 2020

MODIFYING the provisions of Chapter 871, "Landlord-Tenant Relationships," of Title VIII, "Business Regulations," of the Cincinnati Municipal Code, by AMENDING Section 871-9, "Obligations of Landlords and Tenants," to ensure that residential rental agreements set forth fair and reasonable provisions for the assessment and collection of late fees.

WHEREAS, excessive late fees substantially burden residential tenants, especially tenants with limited and fixed incomes, do not protect the legitimate financial interest of landlords, and lead to unnecessary evictions; and

WHEREAS, charging excessive late fees that go beyond the administrative cost of a landlord's acceptance of late rent is an unconscionable penalty on residential tenants; and

WHEREAS, late fees are not excessive if they are reasonably related to the landlord's administrative costs of accepting late rent, which include late fees charged to the landlord by the landlord's mortgage company; and

WHEREAS, existing provisions in the Cincinnati Municipal Code that limit the amount of late fees that can be charged to a tenant do not adequately account for the administrative cost to some landlords of accepting late rent; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 871-9, "Obligations of Landlords and Tenants," of Chapter 871, "Landlord-Tenant Relationships," of Title VIII, "Business Regulations," of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec. 871-9. – Obligations of Landlords and Tenants.

(a) In every rental agreement there shall be imposed upon the landlord the following obligations to the tenant:

- (1) The landlord shall conform to the "Obligations of Landlords" as set out in Section 5321.04 of the Ohio Revised Code.
- (2) The landlord shall maintain the rental unit in substantial compliance with the provisions applicable to landlords in the Cincinnati - Ohio Basic Building Code, the Cincinnati Fire Prevention Code, and the regulations of the board of health.

(3) So long as the tenant continues to meet their obligation under paragraph 871-9(b)(2), no landlord shall raise the agreed rent for the rental unit above the rent charged for comparable rental units, or otherwise increase the obligations of the tenant in any way, or terminate the tenancy, or bring an action for forcible entry and detainer, in retaliation for the tenant's pursuing any right or remedy under this chapter or because:

(A) The tenant has complained in good faith to the landlord or their agent or employees of conditions in or affecting the tenant's rental unit which the tenant believes may constitute a violation of the Cincinnati - Ohio Basic Building Code, the Fire Prevention Code, the regulations of the board of health or any other law;

(B) The tenant has complained in good faith to a body charged with the enforcement of the Cincinnati - Ohio Basic Building Code, the Fire Prevention Code, or the regulations of the board of health, or any other law of a condition in or affecting the rental unit which the tenant believes may constitute a violation of such codes, regulations or other laws; or

(C) In response to a complaint of the tenant, the body charged with enforcement of the Cincinnati - Ohio Basic Building Code, the Fire Prevention Code, the regulations of the board of health or any other law has served a notice or complaint of a violation on the landlord, agents, or employees of the landlord.

(4) Within six months after the occurrence of any event referred to in this paragraph 871-9(a)(3), an action for forcible entry and detainer shall be presumed to be in retaliation for that event and the landlord shall not be entitled to recover possession unless the landlord proves by a preponderance of the evidence that:

(A) The tenant is committing waste, creating a nuisance, using the rental unit for an illegal purpose or for other than living or dwelling purposes, or substantially impairing the quiet enjoyment of the property by the other occupants of the property; or

(B) The landlord desires possession of the rental unit for immediate use as landlord's own abode; or

(C) The rental unit must be vacated in order to make necessary repairs; or

(D) The landlord plans permanently and immediately to remove the rental unit from the rental market.

- (5) The obligations of a tenant under any agreement or under this chapter shall not be modified by this section, but failure of the tenant to perform any obligations other than those specified in paragraphs 871-9(b)(2) and 871-9(a)(4) shall not be grounds for eviction.
- (6) Prior to entry into the rental agreement and thereafter upon request by the tenant, the landlord shall provide to the tenant:
- (A) A copy of all rules and regulations concerning the use, occupancy and maintenance of the rental unit, appurtenances thereto, and the property of which the rental unit is a part; ~~and~~;
 - (B) A copy of the "Notice to tenants" set out in paragraph 871-11(a) and shall obtain from the tenant a written acknowledgement by the tenant of receipt of the rules and regulations and the "Notice to tenants" set out in paragraph 871-11(a); and
 - (C) A complete copy of the written rental agreement, if any.
- (7) When a tenant provides a security deposit the landlord shall provide the tenant with a signed receipt for the security deposit and all rental payments, except for payments made by personal check of the tenant, at the time the security deposit or rental payments are made.
- (8) Upon a tenant's request, all landlords who own and control more than twenty-five rental units and require a security deposit shall offer to accept at least one of the options described in paragraph 871-9(a)(8)(A-C) in lieu of the required security deposit:
- (A) Rental security insurance that satisfies the following criteria:
 - (i) The insurance provider is an approved carrier licensed by, and in good standing with, the Ohio Department of Insurance;
 - (ii) The coverage is effective upon the payment of the first premium and remains effective for the entire lease term; and
 - (iii) The coverage provided per claim is no less than the amount the landlord requires for security deposits.
 - (B) Payment of the security deposit over a series of no less than six equal monthly installment payments, which installments shall be due on the same day as the monthly rent payment and which may be paid together with the monthly rent payment in a single transaction, absent separate agreement by the landlord and tenant; or

- (C) Payment of a reduced security deposit, which amount shall be no more than fifty percent of the monthly rental rate charged for the subject rental unit.
 - (D) Prior to entering into a rental agreement, a landlord shall provide the tenant written notice of the available security deposit alternatives consistent with paragraph 871-11, "Notice to Tenants."
 - (E) If rental security insurance meeting the criteria in this paragraph 871-9(a)(8) is not available within the corporate limits of city of Cincinnati, a landlord shall satisfy his or her obligations under this paragraph 871-9(a)(8) by offering, at his or her option, one of the rental security deposit alternatives described in paragraph 871-9(a)(8)(B-C).
 - (F) The provisions of this paragraph 871-9(a)(8) shall not apply to a deposit placed with a landlord to secure the availability of a rental unit more than sixty days prior to the commencement of the rental period.
- (9) A tenant who elects to provide rental security insurance in lieu of a required security deposit shall not be required to provide additional security or insurance coverage per claim in an amount greater than the amount required for security deposits.
- (10) If the rental agreement includes a provision that authorizes the landlord to assess the tenant a fee for late payment of the monthly rent, the total amount of that late payment fee for any month may not exceed ~~five dollars (\$50.00)~~ or five ten percent (\$10%) of the monthly ~~contract rent, whichever amount is greater.~~
- (11) The landlord shall not:
- (A) Charge interest on a late fee;
 - (B) Impose a late fee more than one time on a tenant's single late payment of rent; or
 - (C) Impose a late fee on a tenant for the late payment or nonpayment of any portion of the rent for which a rent subsidy provider, rather than the tenant, is responsible for paying.
- (b) In every rental agreement there shall be imposed upon the tenant the following obligations to the landlord:
- (1) The tenant shall conform to the "Responsibilities of occupants" as set out in the Cincinnati - Ohio Basic Building Code and to the "Obligations of Tenant" as set out in Section 5321-05 of the Ohio Revised Code.

- (2) The tenant shall tender the agreed rent at the agreed time and place, and in the agreed manner except:
- (A) When the tenant has made any payment to a utility supplier for utility services to the rental unit which, by the rental agreement, is the obligation of the landlord, the tenant may deduct the amount of such payments from the rent.
 - (B) When the landlord has failed to comply with an order of state or local building, health, or fire officials within the time period specified in the initial order to the landlord, the tenant may make or cause to be made necessary repairs and deduct the reasonable cost thereof, including the cost of all necessary permits, from the rent due and owing in the next two consecutive 30 day rental periods. No tenant shall deduct more than two months' rent for the cost of repairs in any six-month period. No tenant shall undertake repairs without first obtaining the necessary permits from the Department of Buildings and Inspections. All repairs shall be made in compliance with the provisions of the Cincinnati - Ohio Basic Building Code.
 - (C) Whenever the building or a portion of the building of which the rental unit is a part is ordered vacated by governmental authority, the tenant shall vacate the rental unit and the duty of the tenant to pay rent shall be completely abated.
- (3) The tenant shall obey all rules and regulations established by the landlord concerning the use, occupation, and maintenance of the rental unit, appurtenances thereto, and the property of which the unit is a part, if:
- (A) The tenant has acknowledged receipt in writing of a copy of the rules and regulations prior to entry into the rental agreement, or has consented in writing to rules and regulations promulgated after commencement of the rental agreement; ~~and;~~
 - (B) The rules and regulations are reasonably related to the convenience, safety or welfare of the tenants of the property, or to the preservation of the property, or to the fair distribution of services and facilities held out for the tenants generally; ~~and~~
 - (C) The rules and regulations are sufficiently explicit in their prohibition, direction, or limitation of the tenant's conduct to inform tenant of what must or must not be done to comply.
- (c) Except as specifically provided in Section 871-9 or any other section of this chapter, all obligations of landlords and tenants under this chapter shall be interpreted as independent obligations and the duty of a tenant or landlord to meet

the obligations under this chapter shall not be conditioned upon the performance of obligations by the other party to the rental agreement.

Section 2. That existing Section 871-9, "Obligations of Landlords and Tenants" of Chapter 871, "Landlord-Tenant Relationships" of the Cincinnati Municipal Code is hereby repealed.

Section 3. That any landlord that owns or controls a rental property subject to the provisions of this ordinance shall cause their rental agreements and rental operation to conform to its provisions no later than 90 days following its passage.

Section 4. That this ordinance shall have prospective application and shall not be deemed to apply to a rental agreement executed or in effect prior to the effective date of this ordinance; provided, however, that this ordinance shall apply to the renewal of a rental agreement that is executed or becomes effective on or following the effective date of this ordinance.

Section 5. That the proper City officials are authorized to take all actions necessary and to implement the provisions of this ordinance once they become effective.

Section 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2020

John Cranley, Mayor

Attest: _____

Clerk

New language underscored. Deleted language indicated by strikethrough.